

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Case No. 1:23-cv-00369-NRM-RML

Plaintiff,

-against-

**MOTION TO DISMISS FOR LACK OF
PERSONAL JURISDICTION**

RARE BREED TRIGGERS, LLC; RARE
BREED FIREARMS, LLC; LAWRENCE
DEMONICO; KEVIN MAXWELL,

Defendants.

DECLARATION OF COLE LELEUX

I, Cole Leleux, declare under penalty of perjury that the following is true and correct to the best of my present knowledge, information and belief:

1. I am an owner of Rare Breed Firearms, LLC (RBF), a consultant for Rare Breed Triggers, LLC (RBT), and a resident of the State of Florida.

2. I am familiar with the operations and management of both RBF and RBT, and the facts set out in this declaration are based on my personal knowledge.

3. RBF is a Texas limited liability company.

4. RBF is registered in Texas and operates in Texas. RBF does not manufacture or sell firearms. Rather, RBF creates unique designs by incorporating 3D elements into the magazine well of AR-15 lower receivers. These designs include a Spartan helmet, Crusader helmet and Samurai helmet. RBF licenses its designs to third party firearm manufactures. RBF's swag and apparel products such as stickers and t-shirts are sold through its website, rarebreedfirearms.com.

5. RBT was incorporated in Florida as a limited liability company in April 2020. It has since reformed as a North Dakota, LLC.

6. Lawrence DeMonico is the President of RBT and resides in Texas.

7. RBT, manufactures and sells firearms accessories and related merchandise, including the FRT-15. It has also sold the Wide Open Trigger (WOT).

8. The FRT-15 was designed and manufactured based on a patented “forced-reset trigger,” which was originally patented by a separate company. The WOT is modeled after the FRT-15. Both the FRT-15 and WOT are forced-reset triggers. Such triggers are aftermarket parts for semi-automatic firearms that allow a shooter to rapidly re-engage the trigger mechanism to allow rapid manual firing. In 2013 the ATF had reviewed and classified one such device and determined that it was “not a part or combination of parts that will convert a semiautomatic firearm into a machinegun,” because the device “allows the trigger to reset” between each round fired. Attachment A.

9. Prior to selling the FRT-15 or WOT, RBT obtained opinion letters from two former ATF Special Agents, Kevin McCann and Daniel O’Kelly. Attachments B, C. Mr. McCann was also a practicing attorney. In each case, the former agents conducted their own examination of the FRT-15 and determined that the device was not a machinegun because the trigger mechanism reset between each shot fired, and Mr. McCann provided RBT with a legal opinion to that effect.

10. After the FRT-15 went into manufacturing, RBT sought two additional examinations and opinions from two national firearms experts to ensure that the production model did not fall under the definition of a machinegun. In particular, RBT wanted to ensure that any changes made to the FRT-15 to aid in manufacturing did not alter the device’s function. In February 2021, RBT received an opinion letter from Rick Vasquez, another former ATF Special Agent and former firearms examiner for the agency. Attachment D. Mr. Vasquez also analyzed the functions of the

FRT-15 against the definition of a “machinegun” under federal law and concluded that the manufactured version of the FRT-15 does not meet the definition of a “machinegun.”

11. In May 2021, RBT received another opinion letter from Firearms Training and Interstate Nexus Consulting, LLC (FTINC) in Grand Rapids, Michigan, via the company’s owner, Brian Luettker. Attachment E. Mr. Luettker is another former ATF Special Agent. Mr. Luettker provided RBT with yet another opinion letter analyzing the functions of the manufactured version of the FRT-15 and comparing it against the definition of a “machinegun” under federal law. Mr. Luettker also concluded that the manufactured version of the FRT-15 does not meet the definition of a “machinegun”.

12. Opinions in hand, RBT began selling its device through two channels, its website and sales to dealers. RBT initially operated primarily from Florida, where its owner, Kevin Maxwell, resided, although RBT’s management decisions were made primarily out of Texas, where Mr. DeMonico resided.

13. The vast majority of sales occurred through RBT’s website, rarebreedtriggers.com. As of November 9, 2020, prior to conducting any sales, RBT created a restricted shipping zone that would not allow the website to take orders from customers reporting addresses in or ship to addresses in California, Hawaii, New York, Puerto Rico, Washington, or Washington, DC. These restrictions also prohibited purchases from credit cards or other payment methods associated with Zip Codes in those states and districts.

14. For dealer sales, a dealer was required to contact RBT directly to initiate the sales. Dealers were required to pay for purchases by direct wire transfers. RBT never sold devices to any dealers located in New York, or dealers who had stated an intent to sell to New York. When RBT initially set up its payment process for dealer wire transfers in August 2021, it was given a routing address

and number from its bank, JP Morgan Chase, that had a New York address. RBT initially sent that routing number to dealers.

15. RBT was alerted almost immediately by dealers that the routing instructions had failed. *See Attachment F.* RBT then realized that the routing information was incorrect, and alerted its customers that they should instead use a routing number for a JP Morgan Chase account in Tampa, Florida. *See Attachment G.* To the best of RBT's knowledge, none of these wire transfers were routed through New York. If, however, any transfers were routed through New York, that would have been against RBT's intent and contrary to its efforts to avoid using banking services in New York.

16. I have reviewed RBT's available records concerning dealer purchases using wire transfers, and have not found any records of any wire transfer routed through the New York account.

17. RBT is not aware of any instance where it sold and shipped an FRT-15 or WOT to any person or address in New York, or processed payment from a buyer with an address in New York. RBT is not aware of any instance where a dealer sent an FRT-15 or WOT to any person or address in New York.

Executed on February 15, 2023


Cole Leleux

ATTACHMENT A

Exhibit 2



U.S. Department of Justice

**Bureau of Alcohol, Tobacco,
Firearms and Explosives**

Martinsburg, WV 25405

www.atf.gov

OCT 31 2013
903050:MRC
3311/301071

Dear Mr. Stakes,

This is in reference to your correspondence (including copy of a patent application), with accompanying AR-type fire-control components, received by the Firearms Technology Branch (FTB), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). In your cover letter, you asked FTB to examine this "3MR™" trigger assembly (see enclosed photo) and determine its classification.

For your reference in this matter, the National Firearms Act, 26 U.S.C. Section 5845(b), defines "**machinegun**" as—

...any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

As indicated, your prototype trigger has three modes: safe mode, a match grade semi-automatic mode, and another match grade semiautomatic mode with a positive reset characteristic. In support of this product, you point out that it will provide tactical and competition shooters with a "safer, faster, and more reliable trigger group." It is also intended to provide positive resets between each shot.

Exhibit 2

Mr. Michael Stakes

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The FTB examination confirmed that the trigger unit consists of a housing, hammer, trigger, disconnect, selector, springs, and reset lever that are designed to be used in an AR-15 type platform. Our examination disclosed that when the selector is placed in the vertical position (apex at 12 o'clock), the trigger, disconnect, and hammer function as any AR-semiautomatic type trigger is designed to do. Further examination also showed that when the selector was placed in the horizontal position (apex at 3 o'clock), the reset lever pivots forward, and the hammer engages/contacts the lever during the cycling of the rifle. In this position, the hammer contacts the reset lever during cocking, which applies force to the trigger, forces the shooter's finger forward, and allows the trigger to reset rapidly.

In the course of our evaluation, FTB personnel installed the submitted 3MR™ trigger into an AR-15 type rifle housed in the ATF National Firearms Collection for test firing. During this phase, a function test was performed before live-fire was conducted. The 3MR™ functioned only semi automatically during both the field test and live-firing.

In conclusion, FTB has determined that the 3MR™ trigger assembly is not a part or combination of parts that will convert a semiautomatic firearm into a machinegun. Your sample will be returned via the FedEx account number provided in your cover letter.

We thank you for your inquiry and trust the foregoing has been responsive to your evaluation request.

Sincerely yours,


Earl Griffith
Chief, Firearms Technology Branch

Enclosure

ATTACHMENT B

Exhibit 9



*Law Office of Kevin P. McCann
137 S. Courtenay Pkwy, Ste 830
Merritt Island, Florida 32952*

*Telephone: (321) 222-3270
Fax: (321) 978-0302*

July 31, 2020

Kevin Maxwell, Esq.
The Law Office of Kevin C. Maxwell
733 West Colonial Drive
Orlando, Florida 32804

RE: Legal Opinion of Firearm Trigger Mechanism
United States Patent 10,514,223

Dear Mr. Maxwell:

Per your request, this letter serves as my legal opinion regarding the legality of a Firearm Trigger Mechanism (“FTM”), United States Patent Number 10,514,223 (“Patent”). You requested my legal opinion based on my current firearms-related legal practice, as well as my former twenty-five (25) year career and experiences as a special agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) in which I routinely determined the legality of numerous firearms and firearm parts.

I reviewed the Patent and I observed a video simulation regarding the functionality of the FTM. On June 13, 2020, I observed the nomenclature and operation of a prototype of the FTM at an outdoor firing range. I reviewed the July 30, 2020 FTM expert technical report of Daniel O’Kelly, International Firearm Specialist Academy, and I reviewed applicable statutes, case law, and prior ATF opinions for similar devices.

The Patent for the FTM states, “*The present invention provides a semiautomatic trigger mechanism for increasing rate of fire that can be retrofitted into popular existing firearm platforms... In the disclosed embodiments, the normal resetting of the hammer, as the bolt or bolt carrier is cycled, causes the trigger to forcibly reset by contact between the hammer and a surface of the trigger member. Once reset, movement of the trigger is blocked by a locking bar and cannot be pulled until the bolt has been returned to battery, thus preventing “hammer follow” behind the bolt or bolt carrier.*”

The mechanics and operation of the FTM, as described in the Patent, was visually presented in a video simulation of the device, which I observed and opined supports the mechanics and operation of the FTM as described in the Patent.

Mr. O’Kelly, a firearms technology expert, conducted a technical examination of the FTM and prepared the above-mentioned expert technical report, which I reviewed and opined supports the mechanics and operation of the FTM as described in the Patent.

Exhibit 9

Kevin Maxwell, Esq.
Legal Opinion
Page 2 of 2

The National Firearms Act (“NFA”), at Title 26, USC, §5845(b), provides the definition of a machinegun as follows: *“The term “machinegun” means any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.”*

The critical element in the definition of a machinegun is, *“... by a single function of the trigger.”* Thus, if a firearm fires more than one shot by a single function of the trigger, then the firearm is classified by statute as a *“machinegun”*. In contrast, if a firearm fires only one shot by a single function of the trigger, then the firearm is not classified as a *“machinegun”*.

The Gun Control Act (“GCA”), at Title 18, USC, § 921(a)(28), provides the definition of a semiautomatic rifle as follows: *“The term “semiautomatic rifle” means any repeating rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.”*

Based on my review of the Patent and video simulation, my observance of the nomenclature and functionality of the FTM, my review of Mr. O’Kelly’s expert opinion report, my review of applicable statutes and case law, my review of prior ATF opinion letters, and my knowledge and experience, I conclude that a rifle equipped with the FTM is not a *“machinegun”* as it does not fire more than one shot by a single function of the trigger. I further conclude that a rifle equipped with the FTM utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and fires only one shot with each separate pull of the trigger, and is thus a *“semiautomatic rifle”*.

As a device that delivers only semiautomatic firing when equipped and utilized within a rifle, I conclude and opine that the FTM is a legal device not subject to the provisions of the NFA. Please let me know if you have any questions or require any additional information.

Very truly yours,

Kevin McCann

Kevin McCann, Esq.

Exhibit 9

Kevin P. McCann, Esq.

137 S. Courtenay Pkwy, Suite 830
Merritt Island, Florida 32952
Kevin@McCannFLLaw.com
(321) 222-3270

Professional Experience:

Law Office of Kevin P. McCann, Merritt Island, FL, April 2016 - Present

Sole Practitioner: Provides legal advice and services in business matters, compliance matters, contracts and civil disputes, firearms matters, criminal defense, personal injury, and estate planning

United States Department of Justice

Bureau of Alcohol, Tobacco, Firearms, and Explosives, 1992 – 2017 (Retired Oct. 2017)

Resident Agent in Charge, Orlando, FL, August 2012 – October 2017

Led groups of federal agents regarding international firearms trafficking, ITAR, narcotics, arson, explosives, money laundering, exporting, and white-collar crime investigations

Criminal Investigator, Orlando, FL, June 2007 – August 2012

Conducted complex investigations involving a variety of federal firearms trafficking, ITAR, narcotics, money laundering, exporting, and violent crime offenses

Supervisory Special Agent, Chicago, IL, April 2004 – June 2007

Supervised all tactical and strategic Intelligence, as well as all firearms trafficking investigations and operations in the Chicago metropolitan area

Criminal Investigator, Baltimore, MD, July 1992 – April 2004

Conducted complex violent crime, firearms, money laundering, narcotics, and white-collar crime investigations. Served as: Public Information Officer, Intelligence Officer, Certified Firearms Instructor, Special Response Team (SWAT) member, and Operations Officer

Education:

U.S. Army War College, Center for Strategic Leadership, Carlisle, PA

Strategic Leadership Course, 2017

University of Maryland, School of Law, Baltimore, MD

Juris Doctorate (JD), Focus on Criminal and Constitutional Law, May 2003

Federal Law Enforcement Training Center, Glynco, GA

Basic Law Enforcement Training and New Agent Advanced Training, 1993; Advanced Undercover Training, 1996; Special Response Team (SWAT) Training, 1998

Exhibit 9

Kevin P. McCann Resume
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Fairfield University, Fairfield, CT

Bachelors Degree, Economics and Finance, May 1992

Bar Admissions:

State Bar of Florida

U.S. District Court (Federal Bar); Middle District of Florida

Professional Associations:

Federal Law Enforcement Officers Association (FLEOA)

Member of the American Bar Association

Member of the Brevard County Bar Association

Member of the Orange County Bar Association

Member of Vassar B. Carlton Inn of Court

Volunteer Associations:

Member of the Elder Board for Georgianna Church

Member of the Brevard County Opioid Task Force

ATTACHMENT C

Exhibit 10



International Firearm Specialist Academy
PO Box 338 Lake Dallas, TX 75605
Email: Info@GunLearn.com

August 6, 2020

Kevin Maxwell, esq.
Rarebreed Triggers
Geneva, Florida

Dear Mr. Maxwell,

This letter serves to explain the results of our recent examination and testing of your “Rare Breed, LLC FRT trigger system”, which you recently submitted to us.

Before I explain my findings, it is necessary for me to clarify a few issues as they relate to firearm technology. First, allow me to differentiate between the term semi-automatic and fully-automatic (machinegun). As you know, Title 26 of the U.S Code defines a machinegun (fully-automatic) in subsection 5845(b) as:

The term “machinegun” means any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger.

It is important to note that by contrast, a semi-automatic is any firearm which shoots only one shot “automatically” by a single function of the trigger. The practical difference between fully-automatic and semi-automatic is referred to as the “cyclic rate of fire” (i.e. the number of shots which can be fired within a minute). This number is merely a ratio. Since few firearms have the capacity to hold a full minute’s worth of ammunition, that number is determined by multiplying the number of shots which can be fired in a fraction of a minute. For example, if a firearm can fire 12 shots in 10 seconds, its cyclic rate of fire is 72 rpm (rounds per minute).

Also, many devices have been invented in recent years which increase a semi-automatic firearms cyclic rate of fire. Bump-stocks and other bump-fire devices are some of them. Despite the fact

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Kevin Maxwell, esq.

August 6, 2020

that the U.S. Government recently reversed themselves by re-defining their years-long position on the word “automatically” as used in the definition of a machinegun, please note that bump-fire devices, including bump-fire stocks do nothing “automatically”, and firearms equipped with them require a separate trigger pull and release to fire each shot.

Please also note that all firearms have a “cycle of operation” which must be completed between the firing of one shot and the firing of a subsequent shot. There are eight steps which must occur during the cycle of operation (i.e. firing, unlocking, extraction, ejection, cocking, feeding, chambering, locking), and the order in which they occur depends upon the type of mechanical operation which the firearm employs (bolt-action, lever-action, break-action, pump-action, revolving action, self-loading, etc...).

Considering that an AR15-type firearm is a self-loading type of mechanical action (i.e. it uses the energy generated by a fired cartridge to reload its own chamber for a subsequent shot), the eight steps of the cycle of operation all occur extremely quickly (i.e. within less than 1/5 second). Therefore, a second shot may be fired by the shooter within 1/5 of a second after the first. Therefore, the cyclic rate of fire of a semiautomatic firearm is only limited by the physical dexterity of the operator of it. While many shooters may not have the physical dexterity to react each 1/5 second, the Rare Breed, LLC FRT trigger system allows a shooter to keep pressure on the trigger in anticipation of the end of a cycle of operation. Although the shooter may in fact hold pressure against the trigger during the cycle of operation, the trigger is not moving nor performing any “function” and is in fact locked in its non-firing position. Please note that “pressure” is not addressed in the definition of a machinegun, nor is the word “pull”. The word “function” is the key word in the definition, and “function” is defined at Dictionary.com as;

“to perform a specified action or activity; work; operate: to have or exercise a function; serve.”
<https://www.dictionary.com/browse/function>

It is imperative that it be recognized that in the Rare Breed, LLC FRT trigger system, keeping pressure on the trigger serves no function. It is akin to leaning on a locked door, and then falling through it once unlocked, rather than waiting for the unlocking and then pushing it open.

In the case of a machinegun, it isn’t the fact that the shooter holds continuous pressure against the trigger, it’s the fact that he “functions” the trigger by pulling it to the rear only once and holding it there, and multiple shots result from this “single function of the trigger”.

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Kevin Maxwell, esq.

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The advantage of the Rare Breed, LLC FRT trigger system is that when a shooter holds pressure against the locked trigger during the cycle of operation, he is able to pull (function) it again immediately after the cycle of operation ends, and avoid the normally much slower reaction time needed when using a traditional trigger. A traditional trigger relies on the shooter to hear the report and feel recoil while reacting to them, and then make the decision to release and re-pull the trigger, and then do so, all of which serve to slow reaction time and as a result, reduce the cyclic rate of fire.

The fact is, that a semiautomatic firearm, such as the AR15-type firearm, takes only a fraction of a second to cycle from one shot to another. There are videos on the internet of professional shooters firing 5 shots from an AR15 within one second. Regardless of whether the ability to fire that quickly semi-automatically is perceived as acceptable by ATF, the mechanical operation of a firearm equipped with an "Rare Breed, LLC FRT" trigger system is still done semi-automatically as defined in federal law. While it is true that a shooter may fire successive shots quickly by keeping pressure on the trigger of a firearm equipped with an "Rare Breed, LLC FRT" trigger system, the shooter must nevertheless make a subsequent movement of the trigger to the rear for each shot fired. The only thing which keeping continuous pressure on the trigger does, is to allow the shooter to be ready to make his next trigger movement immediately after the cycle of operation is complete.

We note that the only thing which happens "automatically" in the Rare Breed, LLC FRT trigger system is the return of the trigger to the set position when it is impinged upon by the hammer. It is also noteworthy that previous ATF rulings since 2009 concerning other devices for use in firing an AR15-type firearm more rapidly, such as the "fire-on-release" (i.e. Franklin Armory's "binary" trigger) type of mechanisms, have defined a single function of the trigger as a "single movement of the trigger". In fact the Franklin Armory Binary trigger system allows 2 shots to be fired with each pull-release of the trigger, yet ATF has opined that these are acceptable and not within the definition of a machinegun. The Rare Breed, LLC FRT trigger system in fact, requires two separate movements of the trigger (rearward and forward) for each single shot fired.

The Rare Breed, LLC FRT trigger system is a self-contained body which fits into the firing-control cavity of an AR15-type firearm. The body utilizes the conventional trigger pivot pin and hammer pivot pin to be held into place. The body houses a trigger, trigger-return spring, hammer, hammer-return spring, and a proprietary "locking bar".

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The "Rare Breed, LLC FRT" trigger system was examined as installed into a Spikes Tactical model SR15 rifle, serial #SKU0092, chambered in 5.56 x 45mm caliber. My examination revealed that the Rare Breed, LLC FRT trigger is designed such that upon firing a shot, as the bolt-carrier moves to the rear it cocks the hammer as normal. However, the hammer in turn forces the reset of the trigger to its original position. Upon doing so, a locking-bar locks the trigger into the reset position, making it physically impossible to move the trigger rearward during the remainder of the cycle of operation. I note that whereas a traditional semiautomatic AR15-type trigger must consciously be released by the shooter in order for it to reset, the "Rare Breed, LLC FRT" type of trigger system forces the reset of the trigger and makes it impossible for the shooter to hold the trigger to the rear. This actually prevents the fully-automatic firing which could result in the case of parts malfunction, and therefore makes an AR15 equipped with a Rare Breed, LLC FRT" trigger system less susceptible to fully-automatic firing than a conventional AR15.

This is accomplished as follows. The bolt-carrier group already having completed the extraction and ejection of a fired cartridge case, begins moving forward under the energy of the buffer-spring. As the bolt goes back into battery, having fed and chambered the next cartridge into the chamber, the lower-tail of the bolt carrier impacts the top of the locking block, causing it to pivot out of engagement with the trigger. Only then, once the next cartridge has been chambered and the breech is locked, is the shooter able to again pull the trigger to fire a follow-up shot. Upon pulling the trigger to fire another shot, the above -described procedural cycle begins again.

The testing of the submitted rifle was done on June 13, 2020, at an outdoor range in Geneva, Florida, in the form of a live-fire session, using factory-loaded ammunition.

While in the "Safe" position, the rifle was found to be incapable of firing as the result of a trigger-pull. While in the "Fire" or "semiautomatic" position, the rifle was found to operate as a semi-automatic firearm as originally designed, firing only one shot for every pull of the trigger. During the rapid firing of full 30 rd. magazines, which were fired as rapidly as possible, there were no instances of "hammer-follow".

At no time did the firearm fire more than one shot per function of the trigger, no matter how quickly in succession the trigger was pulled and released.

In summary, the "Rare Breed, LLC FRT" trigger system did not perform in any way which would make it or a firearm in which it is properly installed, subject to the National Firearms Act. It is also my professional opinion that the "Rare Breed, LLC FRT" trigger system for AR-type

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Kevin Maxwell, esq.

August 6, 2020

firearms as submitted, is not a firearm under the purview of the Gun Control Act, nor under the National Firearms Act.

I trust that my findings have been helpful.

Respectfully,

Daniel O'Kelly

Director

Daniel G. O'Kelly

Exhibit 10

**RESUME OF
DANIEL G. O'KELLY
DIRECTOR
INTERNATIONAL FIREARM SPECIALIST ACADEMY, INC.
GUNLEARN.com

FIREARM EXPERT/CONSULTANT**

**PO Box 338
Lake Dallas, Texas 75065
E-mail: Info@GunLearn.com
Website: www.GunLearn.com**

(813) 422-4674 phone

EDUCATION:

College: -Valparaiso University, Valparaiso, Indiana
Attended from fall 1974 through Spring of 1975.
-Indiana University
Transferred to Indiana University in fall 1975 and
graduated January, 1981 (Bachelor's degree).

EXPERIENCE:

I have over 40 years of full-time experience as a Police Officer, ATF Agent/Firearm Specialist, Criminal Investigator, Range Instructor, teacher of firearm technology, ammunition and firearm manufacturer, and collector. I have examined well over 100,000 firearms and even more pieces of ammunition. I've been involved in numerous investigations concerning them, and I have testified continually in criminal & civil cases in State, Superior, Circuit, District and Federal Courts since 1978. I have been recognized as an expert witness in Federal and State courts since 1990 and have given numerous depositions in criminal and civil cases. I have testified and/or consulted as an expert on the topics of use of force, self-defense with a firearm, ballistics, gunshot residue, federal and state firearm regulations, ATF rulings, ATF compliance and procedures, shooting reconstruction, firearm classification, firearm design, and wrongful death. I am one of only two ATF Agents who have performed an undercover investigation of illicit international firearm trafficking in Europe. Since 1996 I have been a full-time instructor of most facets of the field of firearms, including ballistics, forensics, ATF compliance and regulations, markings, manufacture, classification, and specialize in establishing the interstate nexus of firearms and ammunition in federal court. I have taught these topics countless times from coast to coast, and several times each, in Europe and Africa, and am a Technical Advisor to the Association of Firearm and Tool Mark Examiners, as well as an Advisory Board Member of the Sonoran Desert Institute. I co-wrote the lesson plans for the ATF National Academy, and the firearm technology and compliance training program for Cabela's, Inc., which is the largest firearm retailer in the world. I also served for two years as one of Cabela's corporate ATF

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Resume of Daniel G. O'Kelly

December 16, 2019 Page 2

Compliance Managers. My training is also approved as continuing education by the American Board of Medico-legal Death Investigators, and the International Association for Identification, and I am a contracted instructor for the FBI. I also am a firearm designer and hold a patent as registered with the U.S Patent Office.

WORK EXPERIENCE:

11/11 to Present:

DIRECTOR & CONSULTANT

International Firearm Specialist Academy
Denton, Texas

Self-employed consultant with a staff of fellow consultants, specializing in firearms and forensics-related services for law enforcement, the legal profession, the firearm industry, and the insurance industry.

Clients include civil Attorneys, prosecuting and defense Attorneys, law enforcement agencies and individual law enforcement personnel, licensed firearm dealers, manufacturers, importers and collectors.

Services offered include firearm and ammunition identification, certification as an accredited Firearm Specialist, training seminars on firearm technology, subject-matter expert court testimony, shooting scene reconstruction, shooting accident investigations & reconstructions, gun safety & design-related consultations, ATF compliance consultation and examinations/audits, armorer schools, range instruction, tool mark examinations, crime scene examinations & reconstruction, general criminalistics related examinations, gunshot residues issues, distance determination examinations, forensic pathology casework consultations, etc.

11/11 to 12/13:

CORPORATE SENIOR MANAGER
FIREARM COMPLIANCE TEAM

Cabela's, Inc.
Sidney, Nebraska

Responsible for the auditing and inspection of the firearm departments of the company's 50 stores. This was in order to ensure and maintain ATF compliance, for one of the world's largest firearm retailers. I also co-wrote and delivered their training program to hundreds of employees on firearm ID, ATF compliance, Ammunition, the Gun Control Act and the National Firearms Act.

03-01 to 11/11:

ATF SENIOR SPECIAL AGENT

Tampa, Florida

Duties included investigations of violations of the federal gun laws and explosives laws,

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Resume of Daniel G. O'Kelly

December 16, 2019 Page 3

bombings, arsons and undercover investigations of organized crime. Further, it included firearm interstate nexus determinations and the teaching of same, firearm technology determinations, court testimony, and the training of ATF Agents and Investigators and other law enforcement personnel on all aspects of firearms. I was the commonly preferred Agent of the U.S Attorney's Office, for testimony on firearm matters.

05/02 to 05/03: **FIREARM INSTRUCTOR COORDINATOR (as ATF Agent)**
Tampa Field Division, Florida

During my tenure as an ATF Agent in Tampa, I served for 2 years in this capacity also. Duties included the firearm training of ATF personnel for the northern 2/3 of the State of Florida. This supervisory responsibility included:

- Firearm identification
- Ammunition casing, bullet and cartridge identification
- Firearm Interstate Nexus determinations for U.S. District Court
- NFA firearm examinations/determinations
- Oversight of 15 Range Instructors
- Maintenance of the firearm training budget, maintenance of over 200 firearms in inventory and maintenance of over 50,000 rounds of ammunition
- Assisting U.S. Attorneys and other Agents in firearm and ballistics related determinations
- Teaching seminars statewide, to thousands of police, legal, medical, and other personnel, on firearm and ammunition- related topics.
- Made determinations as to whether an item is a non-gun vs. a firearm, according to Title 18 and Title 26, U.S. Code
- Performed function checks on firearms as to their ability to fire
- Acted as the Armorer/repairman for all duty-issued firearms
- Purchased supplies- ammunition, equipment, etc... as needed for the Field Division.
- Testifying in court (local, state, and Federal) concerning my examinations. (several hundred times at last count).

01-96 to 03/01 **ATF SENIOR SPECIAL AGENT/ PROGRAM MANAGER**
ATF National Academy
Glynco, Georgia

I was the Chief Firearm Technology Instructor at the ATF National Academy, where I wrote and co-wrote the entire firearm technology course of study that is still taught to new Agents and compliance Investigators. I also instructed courses for U.S. Customs on firearm importation. I also was custodian of the firearm reference vault which contained over 800 firearms, including numerous NFA firearms. It was my duty to maintain, repair and have a teaching-level familiarity with the operation of all of them.

Exhibit 10

Resume of Daniel G. O'Kelly

December 16, 2019 Page 4

I also became certified by ATF as an Interviewing (Train-The Trainer) Instructor, and administered several Interviewing Schools around the U.S., as sponsored by the ATF National Academy. I also served as the Program Manager of ATF's Undercover School during 1998-99. I delivered and co-instructed numerous 2-week undercover courses to State, Local and Federal law enforcement officers, including ATF.

03-00 to 5-00 **Temporary Duty as Supervisory ATF Resident Agent-in-Charge**
Wilmington, Delaware

Tasked with correcting the multitude of problems in a rogue office which was being considered for closure due to the many failures of its Agents. Success was achieved in only six weeks as the Agent in Charge of the State of Delaware, resulting in my being awarded for Special Service by the Baltimore Field Division.

09-88 to 01-96 **ATF SPECIAL AGENT**
Merrillville, Indiana

Duties included investigations of violations of the federal gun law, explosives laws, bombings, arsons and organized crime. Heavy emphasis was given to undercover investigations of armed narcotics dealers and organized crime. Further, duties included firearm interstate nexus determinations, firearm technology determinations, court testimony, and the training of ATF Agents, Investigators and other law enforcement personnel on all aspects of firearms. I was the commonly preferred Agent of the U.S Attorney's Office for testimony on technical firearm matters.

03-77 to 09-88 **POLICE OFFICER**
Porter County, Indiana

Duties included public safety and service, investigations and arrests for violations of municipal ordinances, State and Federal law. Also included was routine traffic patrol, and answering calls and taking reports of crimes. I served also as department firearm range instructor, providing range oversight, and classroom instruction. I also served for two years in a full-time undercover capacity attached to the Porter County Drug Unit. My duties there were to make purchases of narcotics, firearms and other contraband and investigate the perpetrators. I served the last two years as a Detective Corporal, doing follow-up investigation of everything from misdemeanors to violent felonies.

Specialized Training:

- Recognizing an 80% Receiver in Casework (AFTE 2018 - Kingery) – 6/18
- Tour of LRB firearm manufacturing facility Floral Park, NY - 1/18

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Resume of Daniel G. O'Kelly

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- Tour of the Museo Del Ejercito (Army Museum) in Toledo, Spain – 9/17
- Tour of the Imperial War Museum London, England – 9/17
- Tour of War and Peace Museum Oban, Scotland – 9/17
- Staged Homicide Crime Scenes seminar (Forensic Pieces) - 5/17
- Shooting Incident Reconstruction Course (40 hours, by Tritech Forensics) - 5/17
- Tour of Military Museum Menege (Finnish Government Military) museum in Suomenlinna, Finland - 9/16
- Tour of Armemuseum (Swedish Government Military) museum in Stockholm, Sweden – 9/16
- Barrel Making Techniques (AFTE 2016 – Offringa) -6/16
- The Silencer in Court for the Expert Witness (ATF FTB – Kingery) - 4/15
- The Machineguns and Machinegun Conversions (ATF FTB – Kingery) - 4/15
- Tour and research at HS Precision Rifles mfg. facility in Rapid City, SD, and Dakota Arms mfg. facility in Sturgis, SD – 2013
- Tour and research at Connecticut Shotgun in New Britain, CT., and Charter Arms in Sheldon, CT. – 2013
- Tour and research at STI Firearms mfg. facility in Austin, TX.- 2013
- Tour and research at North American Arms in UT. - 2013
- International Exchange of Military Technology, Titusville, FL - 2012
- Tour and research at Patriot Ordnance Factory, Phoenix, AZ. – 2012
- Tour and research at Arms Tech Ltd. in Phoenix, AZ. - 2012
- Tour and research at Windham Weaponry in Windham, ME.- 2012
- Armorer training, Kimber Firearms, West Palm Beach, FL. – 2011
- Tour and research at the Bundesamt fur Wehrtechnik und Beschaffung (BWB) (Federal Office of Defense Technology and Procurement) in Koblenz, Germany. – 2010
- Armorer training, DS Arms (FAL), Springfield Armory (XD), and Smith & Wesson (M&P), San Antonio, TX. - 2010
- Tour and research at Kel-Tec CNC Industries, Cocoa Beach, FL. – 2009
- Tour and research at Diamondback Arms, Titusville, FL. - 2009
- Tour and research at the German Police (BKA) firearm technology reference collection, Wiesbaden, Germany - 2005
- Tour and research at Vektor Firearms factory, and the New Generation Ammunition Factory, Pretoria, South Africa. – 2004
- Remington Armorer School (870, 1187 and 700), Cape Girardeau, Missouri. – 2003
- Tour and research at MFS ammunition factory, Sirok, Hungary. – 2003
- International Association of Law Enforcement Firearm Instructors (IALEFI) annual training conference, Orlando, Florida. – 2003
- Tour and research at Sellier & Bellot ammunition factory, Vlasim, Czech Republic. – 2003
- Tour and research at the U.S. Military Academy firearm museum at West Point, NY. – 2003
- Firearm Instructor Recertification/Enhancement Workshop, ATF Special Operations Division, Orlando, Florida. – 2002
- Colt Armorer school (AR-15/M-16/M-4 series), (Model O pistols), Fairfax, Virginia. – 2002

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- Beretta Armorer school (model 92/96), San Diego, California. – 2002
- Fabrique Nationale Herstal (FNH) Armorer school (P90) San Diego, California. – 2002
- Tour and research at Pretoria Metal Pressings (PMP) ammunition factory, Pretoria, South Africa. - 2002
- Tour and research at Vektor firearm mfg., Pretoria, South Africa.- 2002
- IALEFI Training Conference, San Diego – 2002
- Tour and research at Fegarmy firearm factory (2nd tour), Budapest, Hungary. -2001
- Tour and research at the Hungarian Police Laboratory firearm reference collection, Budapest, Hungary -2001
- Tour and research at Ceska Zbrojovka (CZ) firearm factory (my 2nd tour) and the Czech government Proof House, Uhersky-Brod, Czech Republic. – 2001
- Tour and research at Glock firearm factory (my 2nd tour), Deutsch-Wagram, Austria. -2001
- Tour and research at the Vienna proof house in Deutsch- Wagram, Austria. – 2001
- Tour and research at Carl Walther firearm factory (my 2nd tour), Ulm, Germany. - 2001
- Tour and research at the government proof house, Ulm, Germany – 2001
- Tour and research at Heckler & Koch firearms (my 2nd tour), Oberndorf, Germany. -2001
- Tour and research at Sig-Sauer firearms (my 2nd tour), Eckernforde, Germany. – 2001
- Tour and research at the Kiel proof house, Eckernforde, Germany – 2001
- Tour and research at the Fabrique Nationale (FN) firearm Factory, Liege, Belgium. -2001
- Tour and research at the government proof house, Liege, Belgium -2001
- Tour and research at the Austrian Police Headquarters Waffen Referat (Weapons Reference Collection), Vienna, Austria. – 2001
- Tour and research at the Heeresgeschichtlen (Military History) Museum, Vienna, Austria. – 2001
- ATF Youth Crime-Gun Interdiction Initiative Instructor school, Washington, D.C. – 2000
- Tour and research (my 2nd tour) at the Heeresgeschichtlichen (Military History) Museum, Vienna, Austria. – 1999
- ATF Advanced Firearm Interstate Nexus course on ammunition manufacturing. Included tours and research at Hornady in Grand Island, Nebraska, 3D in Doniphan, Nebraska, Lake City Army Ammunition Depot in Independence, Missouri, Starline Brass and Sierra Bullets in Sedalia, Missouri, and the Winchester-Olin ammunition plant in East Alton, Illinois - 1999
- ATF Advanced Firearm Interstate Nexus course on firearm manufacturing. Included tours and research at Sturm-Ruger (my 2nd tour) and Pine Tree Castings in New Hampshire, Smith & Wesson and Springfield Armory in Massachusetts, and Colt and Mossberg in Connecticut. – 1998
- Sturm-Ruger Armorer course (Mini-14, Police Carbine, P89, P95) Newport, NH – 1997
- Tour and research at Sturm-Ruger firearm factory, Newport, New Hampshire. - 1997
- Tour and research at Pine Tree (firearm) Castings facility, Newport, New Hampshire. – 1997
- Tour and research at Ceska Zbrojovka (CZ) firearm factory in Uhersky-Brod, Czech Republic. - 1997
- Tour and research at Steyr firearm mfg. plant, Steyr, Austria.- 1997
- Tour and research at the Fegarmy' firearm mfg. plant, Budapest, Hungary. – 1997
- Tour and research at Glock pistol mfg. plant, Deutsch- Wagram, Austria. 1997

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- Heckler & Koch Armorer, Sterling, Virginia. – 1996
- Sig-Sauer Armorer course (P225, P226, P228) Fort McClellan, Alabama. – 1996
- Reid Interviewing Seminar – 1996
- ATF Interviewing Instructor and Neuro-Linguistic Programming School – 1996
- SIMUNITIONS Scenario-Based (Train the Trainer) Seminar – 1996
- Tour and research at Sig-Sauer mfg plant, Eckernforde, Germany, - 1995
- Tour and research at Carl Walther firearm mfg. plant, Ulm, Germany, where I consulted on development of the model P99 pistol. – 1995
- ATF Advanced Arson and Explosives Investigation School – 1995
- Violent Crime/Homicide Investigation School (USDOJ) – 1994
- Tour and research at the Ministry of Defense, Pattern Room, Nottingham, England. – 1994
- Tour and research at Holland & Holland, Ltd., firearms London, England. – 1994
- Bureau of ATF Academy Instructor Certification – 1994
- Glock Armorer Course, Springfield, Illinois. – 1993
- Advanced Interviewing and Interrogation (Portage PD)- 1992
- Sig-Sauer Armorer Course, Greenwood, Indiana. - 1990
- FLETC Distinguished Weapons Expert Certification – 1990
- ATF Basic Firearm Interstate Nexus course, Washington D.C., (included examination of over 4,500 firearms) - 1990
- Firearm Instructor certification course at the Federal Law Enforcement Training Center, Marana, AZ. – 1990
- New Agent Training at the Federal Law Enforcement Training Center, Glynco, Georgia. – 1988
- Criminal Investigator School, at the Federal Law Enforcement Training Center, Glynco, Georgia. – 1988
- Smith & Wesson Revolver Armorer Course, Kent State University -1987
- Smith & Wesson's Scope -Sighted Rifle School - 1987
- Indiana L.E. Training Board, Instructor Certification – 1987
- Aerko International Chemical Weapons Specialist School, Camp Atterbury, Indiana. – 1987
- NRA Police Firearms Instructor Certification - 1985
- FBI Hostage Negotiator School – 1984
- Firearm Instructor Training Course at the Indiana Law Enforcement Academy, Plainfield, IN. – 1982
- Monadnock PR-24 Police Baton (Portage PD) – 1981
- Police Officer Street Survival (L/SPSTC) – 1981
- Chemical Tests for Intoxication Certification (ILEA) - 1979
- Police Officer Certification, Indiana Law Enforcement Academy, Plainfield, Indiana. – 1979
- NRA Police Expert (Range Qualification) - 1978

PROFESSIONAL AFFILIATIONS

NSSF (The National Shooting Sports Foundation)
 ARIN (ATF's Ammunition Research and Identification Network)

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IAA (The International Ammunition Association)
 NDIA (The National Defense Industrial Association)
 IALEFI (The International Association of Law Enforcement Firearm Instructors)
 NRA (The National Rifle Association)
 ABMDI (Association of Medico-legal Death Investigators)
 REAF (Property and Evidence Association of Florida)
 FDIAI (Florida Division- International Association of Identification)
 IAI (International Association for Identification – National Chapter)
 ILEETA (International Law Enforcement Educators and Trainers Association)
 AFTE (Association of Firearm and Tool Mark Examiners)

PRESENTATIONS

1. Certified Firearm Specialist Course (3-day seminar) – Kansas City, MO 8/19
2. Certified Firearm Specialist Course (3-day seminar) – Las Vegas, NV 8/19
3. Certified Firearm Specialist Course (3-day seminar) – St. Louis, MO 8/19
4. Certified Firearm Specialist Course (3-day seminar) – Charlotte, NC 7/19
5. Certified Firearm Specialist Course (3-day seminar) – Oceanside, CA 7/19
6. Certified Firearm Specialist Course (3-day seminar) – San Antonio, TX 7/19
7. Certified Firearm Specialist Course (3-day seminar) – New Haven, CT 6/19
8. How to Identify “Other” Firearms – AFTE 50th Annual Conf. Nashville, TN 5/19
9. Machineguns and Clandestine Conversions – Nashville Police Department/AFTE 5/19
10. Certified Firearm Specialist Course Seattle, WA – 5/19
11. Certified Firearm Specialist Course Orlando, FL – 5/19
12. Certified Firearm Specialist Course Skokie, IL – 4/19
13. Advanced NFA Firearm Training – Houston, TX 6/18
14. “Other Firearms” (AFTE 2018) - Charleston, WV 6/18
15. Firearm Technology and Specialist Training (3-day seminar) – Boston, MA 5/18
16. Firearm Technology and Specialist Training (3-day seminar) – Brighton, CO 4/18
17. Firearm Technology and Specialist Training (3-day seminar) – Santa Cruz, CA 3/18
18. Firearm Technology and Specialist Training (3-day seminar) – Floral Park, NY 1/18
19. Firearm Technology and Specialist Training (3-day seminar) – Oceanside, CA 11/17
20. Firearm Technology and Specialist Training (3-day seminar) – Pensacola, FL 11/17
21. Firearm Technology and Specialist Training (3-day seminar) – St. Louis, MO 8/17
22. Firearm Technology and Specialist Training (3-day seminar) – Kissimmee, FL 6/17
23. Firearm Technology and Specialist Training (3-day seminar) – Seattle, WA – 4/17
24. Firearm Technology and Specialist Training (3-day seminar) – Chicago, IL – 4/17
25. Firearm Technology and Specialist Training (3-day seminar) – Escondido, CA – 10/16
26. Firearm Technology and Specialist Training (3-day seminar) – Ft. Myers, FL – 10/16
27. Home-made Firearms, Silencers, Disguised Firearms, and Court Testimony – SWAFS - Galveston, TX - 9/16
28. Firearm Classification and Markings – IAI/Cincinnati, OH – 8/16
29. Certified Firearm Specialist Course (3-day seminar) – FDLE Jacksonville, FL - 7/16

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30. Firearm Technology and Specialist Training (3-day seminar) – New Jersey St. Police – 7/16
31. Firearm Technology and Specialist Training (3-day seminar) – Pensacola, FL PD - 7/16
32. Firearm Technology and Specialist Training (3-day seminar) – CSI Academy Alachua, FL – 7/16
33. Firearm Classification and Markings – AFTE/New Orleans, LA – 6/16
34. Discerning real guns from fakes with video/photo evidence – AFTE/New Orleans, LA – 5/16
35. Firearm Technology and Specialist Training (3-day seminar) – Santa Fe, NM – 5/16
36. Firearm Technology and Specialist Training (3-day seminar) – St. Louis, MO – 4/16
37. Firearm Technology and Specialist Training (3-day seminar)– Seattle, WA – 4/16
38. Firearm Technology and Specialist Training (3-day seminar) – Miami, FL – 1/16
39. Firearm Technology and Specialist Training (3-day seminar) – Biddeford, Maine – 1/16
40. Firearm Technology and Specialist Training (2-day seminar) – Jacksonville, FL – 9/15
41. Firearm Technology and Specialist Training (2-day seminar) – Windham, Maine – 8/15
42. ATF Firearm Licensee Compliance; Jeffersonville, IN – 8/15
43. Firearm Technology and Specialist Training (2-day seminar) –Pensacola, FL PD – 7/15
44. Firearm Technology and Specialist Training (2-day seminar) - Kissimmee, FL – 7/15
45. Firearm Technology and Specialist Training (2-day seminar) – Seattle, WA - 5/15
46. Firearm and Ammunition Classification – PNWIAI Conference – Portland, OR 5/15
47. Firearm Technology and Specialist Training (2-day seminar) – Miami, FL – 3/15
48. Firearm Technology and Testimony (2-day seminar) – Orange Beach, AL - 11/14
49. Firearm Technology and Testimony (2-day seminar) – Albuquerque, NM – 10/14
50. Basic Firearm Technology and Testimony – Ft. Myers, FL – 7/14
51. Advanced Firearm Technology – Institute of Military Technology – Titusville, FL. 10/12
52. Firearm Recognition/Handling/Testimony – Orange Co. Sher. Ofc. – Orlando, 7/5/12
53. Firearm Recognition/Handling/Testimony – Florida Dept. of Law Enf. - Orlando, 6/4/12
54. Firearm ID – How to Read a Gun – Florida Assn. of Lic. Inv. – Tampa, FL 6/11/11
55. Firearm Hist. and Development – A Primer/ Becoming an Expert – W. P. Bch, FL, 5/26/11
56. Contributor to the book Cartridges & Firearms Identification by Robert Walker, ISBN #9781466502062 – 2010
57. Firearm Technology and Enforcement – Int'l LE. Academy – Budapest, Hungary, 7/10
58. Crime-Gun Safety, Recognition and Handling – Daytona Beach Police Department, 09/09
59. Crime-Gun Safety, Rec. and Handling – Brevard County, FL Sheriff's Office, 06/09
60. Ammunition Technology – Property and Evidence Association of Florida, Orlando, 02/09
61. Firearm Interstate Nexus – ATF and South African Police Service - Orlando, FL, 01/09
62. Industry Operations Investigator Basic Course – Glynco, GA, 10/07
63. Firearm Technology and Enforcement – Gabarone, Botswana (Africa), 08/07
64. Small Arms Trafficking – ILEA – Gabarone, Botswana (Africa), 08/07
65. Firearm Recognition, Technology and Anti-Smuggling – ILEA Budapest, Hungary, 12/08
66. Firearm Recognition/Technology – Orange County Sheriff Orlando, FL 08/08
67. Crime-Gun Rec., Handling, Tech. and Prosecution – FDIAI – Panama City, FL, 11/05
68. Reloading Metallic Cartridges - Florida Dept. Of Law Enforcement – Tampa, FL 03/08

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69. New Developments in Ammunition – FDLE Orlando, FL, 10/04
70. Firearm Technology and Enforcement – Gabarone, Botswana (Africa), 09/04
71. Small Arms Trafficking – ILEA – Gabarone, Botswana (Africa),
72. Man-Portable Air Defense Systems – Florida Intelligence Unit – Daytona Bch, FL 07/04
73. Reloading Metallic Cartridges - Florida Dept. Of Law Enforcement – Tampa, FL, 08/03
74. Firearm Recognition, Technology and Anti-Smuggling – ILEA Budapest, Hungary, 06/03
75. Firearm Technology and Enforcement – Gabarone, Botswana (Africa), 08/02
76. Firearm Recognition, Technology and Anti-Smuggling – ILEA Budapest, Hungary, 02/97
77. Firearm Technology for Law Enforcement Gary, IN, 12/95

AWARDS & ACHIEVEMENTS

Fraternal Order of Police (Past-President) Westchester Lodge #152 - 1980
 Presented Distinguished Weapons Expert Award by FLETC - 1990
 Presented Special Act or Service Award by ATF - 1993
 Presented U.S. DOJ Award for Public Service by U.S Attorneys Office - 1995
 Presented Special Act or Service Award by ATF - 1999
 Presented Special Act or Service Award by ATF - 2000
 Presented Certificate of Appreciation by ATF National Academy – 2001
 Presented Special Act or Service Award by ATF - 2002
 Presented Award for Educational Support by PEAf - 2005
 Invited to join ATF's ARIN (Ammunition Research & ID Network) – 2005
 Featured Speaker- "Firearm Technology"- Property and Evidence Association of
 Florida Annual Conference - 2006
 Research of ammunition company history determination on interstate nexus,
 on metallic cartridges found in the State of Florida.- 2009
 Presented IALEFI Guest Instructor Award - 2010
 Invited onto the Advisory Board of the Sonoran Desert Institute – 2014 - Present
 Recognized as a Technical Advisor to the Assn. of Firearm and Tool Mark Examiners –
 2017 - Present

ATTACHMENT D

Exhibit 11

February 24, 2021

VIA E-MAIL ONLY
kevincmaxwell@gmail.com

Kevin C. Maxwell, Esquire
Law Offices of Kevin C. Maxwell
733 West Colonial Drive
Orlando, Florida 32804

Subject: Rare Breed FRT-15

Dear Kevin:

My consulting firm, Rick Vasquez Firearms, LLC was asked to provide an opinion concerning the classification of Rare Breed Triggers model FRT-15 trigger. As part of my research and analysis, I have reviewed a Rare Breed Trigger installed in a firearm, along with the video on the operating principles. I additionally reviewed previous ATF Firearms Technology Branch rulings on machineguns and rate of fire increasing triggers and utilized my extensive experience in firearms technology classification related matters. This experience includes, among other things, over two decades in the United States Marine Corps, work as a firearms instructor, and fifteen years with the Bureau of Alcohol, Tobacco and Firearms, including time as the acting chief of ATF's Firearms Technology Branch – the branch of ATF charged with rendering firearms classification decisions.

As a consultant, I have worked with numerous federal firearm licensees with regard to ATF regulatory compliance and related matters, including a number of firearm manufacturers. Accordingly, and while my analysis and opinions are set forth in additional detail below, it is my opinion that the Rare Breed Triggers FRT-15 trigger is a legal semi-automatic trigger and does not constitute a machinegun pursuant to the National Firearms Act.

I. LEGAL DEFINITIONS AND BACKGROUND:

Under 18 U.S.C. § 921(a)(3), the Gun Control Act of 1968 (“GCA”) defines the term “firearm” to include “any weapon (including a starter gun) which will or is designed to or may be readily converted to expel a projectile by the action of an explosive ... [and] ... the frame or receiver of any such weapon...” Moreover, under 26 U.S.C. § 5845(b), the National Firearms Act of 1934 (“NFA”) defines “machinegun” to include “any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger.” This term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.” (emphasis added). Thus, the question presently under consideration is whether the Rare Breed Triggers FRT-15 falls within the definition of “machinegun” under the NFA.

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RICK VASQUEZ FIREARMS, LLC
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II. APPLICATION AND ANALYSIS:

As a preliminary matter, it has long been ATF's position (dating back to the late 2000) that semi-automatic rifles that did not use electronics, springs or hydraulics to reset the trigger were not machineguns. The FRT-15 has a redesigned trigger, hammer, and a locking bar that functions as a disconnecter. This system forces the trigger to mechanically reset and allows the shooter to pull the trigger in a rapid movement.

The FRT-15 is designed to fire in the following manner:

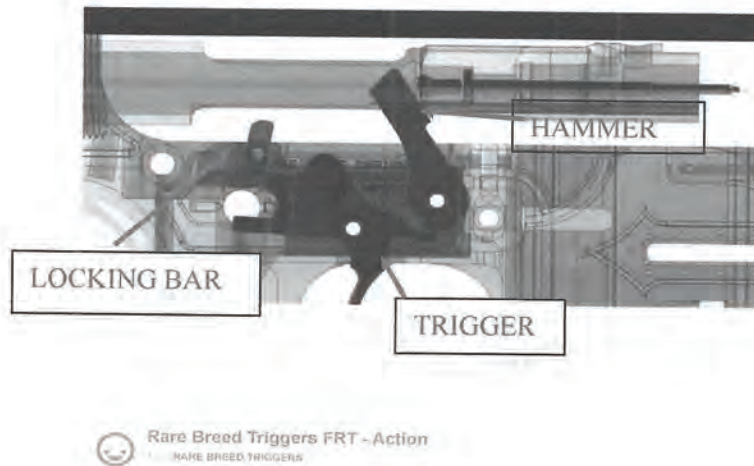
- With the firearm loaded and placed in the fire position.
- The shooter pulls the trigger, and it disengages from the hammer.
- The hammer engages, the hammer in turn striking the primer of the round in the chamber and the firearm fires.
- During the extraction and ejection phase of the cycle of operation, the hammer is cocked from inertia of the bolt carrier group (BCG) traveling back from gas pressure. Simultaneously as the hammer is cocked, the hammer forces a reset of the trigger..
- When the trigger is reset, the locking bar swings forward and engages the trigger, mechanically locking it in the cocked or ready to fire position. This action can be felt by the pushing of the trigger finger forward..
- As the BCG gets to its final forward position, the locking bar is disengaged by the bolt allowing the previously locked trigger to be pulled for the follow-up shot.

This cycle of operation is nothing other than the FRT pushing the trigger and trigger finger forward allowing the shooter to pull the trigger rapidly. The shooter can simply pull and release the trigger for a standard rate of fire. Accordingly, since ATF interprets the term "single function of the trigger" in the NFA definition of machinegun to mean a single movement of the trigger. Each "pull" of a trigger constitutes a single movement.

The FRT-15 trigger is specifically designed to fire a single shot on each movement of the trigger. My evaluation which included a thorough evaluation of the parts, operating principle, and a test fire, of the FRT-15 in an AR15 type rifle, verified that it fired only when the trigger is pulled. The reset function of the trigger pushes the trigger finger back to the fire position allowing the shooter to shoot rapid semi-automatic fire.

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III. CONCLUSION:

The FRT trigger system is a self-contained trigger assembly with a redesigned hammer, trigger, and locking bar (disconnecter). The FRT trigger system does not have an automatic sear nor does it operate by electronics, springs, or hydraulics, therefore, is not a "machinegun". Additionally, there is no verifiable history of ATF opinions to support this trigger being classified as a machinegun, both in general and specifically pertaining to the underlying design.

Please contact me with any questions or concerns that you may have or should you require any clarification of me opinion. This letter and the opinions contained therein are intended solely for your law firm and your client and are not to be relied upon by any other individual or entity for any purposes.

Very truly yours,

Rick Vasquez

Exhibit 11

Rick Vasquez Firearms LLC
235 Deer Creek Road
Winchester VA 22602
540-535-6633

Social Security Number:
 Country of Citizenship: U.S.
 Security Clearance: Previous top secret

EMPLOYMENT

October 2014 - Present **Consultant to FFLGuard and the Firearms Industry**

As a consultant to FFLGuard provide expertise on manufacturing of firearms, the NFA, Imports, AECA and firearms compliance

Active Crisis Consulting

- General manager for Active Crisis Consulting
- Provide Active Shooter prevention services
- Provide security protocols and procedures to private sector and corporate industry sector

Independent Firearms Consultant

- Consultant is contracted to numerous major firearms manufacturers
- Provide firearms classification expertise as a non-paid consultant to the Australian Crime Commission
- Served as a firearms expert to the United Nations on the Small Arms and Light Weapons panel in Brussels, Belgium. Prepared articles on "Home Made Firearms", "Parts Kits Firearms", and provided guidance on trafficking of firearms
- Prepared and presented firearms training based on the Gun Control Act (GCA) and the National Firearms Act (NFA) to the Federal Bar Association, Northern VA.
- Provide expert advice and testimony in civil litigation pertaining to firearms
- Provide services related to firearms identification and classification, as applied to the GCA and the NFA, to the firearms industry and the private sector
- Conducted a firearms identification course to El Salvadoran prosecutors in El Salvador
- Provide evaluations of firearms functionality for product liability cases
- Provide training on all aspects of the GCA, NFA, and compliance to the firearms industry
- Developed and led team building events centered around firearms and leadership
- Instruct all levels of firearms use and training
- Provided expert testimony in cases relating to firearms

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Exhibit 11

- Have performed product evaluations on firearms for importation and compatibility to current firearms laws
- Professional firearms/shooting instructor
- Provide expertise in the design of firearms related items to include arm braces for submission to ATF
- Manage a 300 acre 360-degree capable range facility
- Develop Standard Operating Procedures (SOPs) for the safe operation of both indoor and outdoor range facilities
- Instruct basic and advanced shooting method
- Developed a Cartridge Headstamp Identification Guide for ATF

August 2011 - September 2014

BUREAU OF ALCOHOL, TOBACCO, FIREARMS and EXPLOSIVES (ATF)

Firearms Trafficking and Interdiction Branch, Firearms Operations Division

Program Manager/ Branch Chief, Firearms Training Branch

- Developed programs and training on firearms trafficking and interdiction
- Assisted Field Operations in identifying and instructing firearms trafficking trends
- Assisted in updating and writing all Standard Operating Procedures (SOPs) of the National Firearms Act Branch (NFA)
- Developed specific training on 3D printing, partially complete receivers, and counterfeit firearms
- Trained all Central American and Mexican federal law enforcement counterparts on U.S. firearms laws and regulations
- Served as the firearms expert for Field Operations on all firearms-related subjects
- Trained a cadre of the Mexican Naval Infantry in the use of foreign weapons and machineguns
- In conjunction with NATO forces I fired all Bosnian military firearms (in Bosnia) and recovered the cartridges for entry into NIBIN. This evidence was used in prosecution in the War Crimes Tribunals.
- Presented United States firearms regulations and trafficking trends to Interpol and the Royal Canadian Mounted Police
- Developed foreign weapons identification courses
- Developed and presented a course on importation guidelines and United States Firearms laws to the Australian Federal Police, Australian Crime Commission and Australian Customs
- Provided firearms identification and trafficking training to the Judges of Guatemalan Supreme Court, which led to collaboration between our countries to destroy a large cache of firearms that were being trafficked to the U.S.

June 1999 – August 2011

BUREAU OF ALCOHOL, TOBACCO, FIREARMS and EXPLOSIVES (ATF)

Firearms Technology Branch

Assistant Branch Chief, Acting Chief, Firearms Technology Branch (FTB)

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- Prepared SOPs on for how to conduct live fire training on outdoor and indoor ranges
- Developed certification standards and safety protocols for indoor range training and conducting tests in the indoor test range for testing on all firearms such as; machineguns, handgun, silencers, etc., regulated by the GCA and NFA
- Supervised, organized workload, and trained a staff of 14 personnel, including eight firearms enforcement officers, one evidence technician, one writer-editor, one program analyst, and two gunsmiths
- Developed training in all aspects of firearms use and identification. Instrumental in developing and implementing training for law enforcement counterparts in several federal, state and local law enforcement agencies
- Served as the expert on all Gun Control Act (GCA) and National Firearms Act (NFA) identification and classifications
- Wrote Standard Operating Procedures (SOP) for all aspects of FTB operations. These SOPs have now been used to defend ATF policies in criminal and civil litigation
- Served as a Firearms (shooting) Instructor
- Instrumental in developing firearms identification training specifically for the "Southwest Border" program
- Reviewed and corrected all reports prepared on evidence submitted by ATF special agents
- Served as the expert on classification of items submitted by the firearms industry for classification under the GCA and the NFA
- Served as the expert on firearms importation guidelines and reviewed all items submitted for approval for importation
- Developed foreign weapons identification and use training and have provided this instruction to Secret Service, DEA, ATF, and other Law Enforcement agencies

June 1996 - June 1999

DIPLOMATIC SECURITY SERVICE (DSS)

Firearms Instructor – November 1996 – June 1999

- Managed an indoor range and several offsite range facilities
- Developed SOPs on how to conduct range operations, shooting techniques, safety protocols, role of the instructor, and how to determine surface danger zones
- Conducted all manner of firearms training for DSS. Developed training syllabi for long-range rifle training, fire and maneuver tactics, submachine gun, handgun, and evacuation techniques under live fire
- Certified the Mobile Security Division and the Tactical Response team as firearms instructors and how to develop expedient ranges
- Wrote training manuals and training syllabi to cover all aspects of firearms training
- Developed and conducted training in force protection, IED detection, surveillance, and counter terrorism
- Instructed the force continuum policy to DSS Special Agents

August 1974 - April 1996

UNITED STATES MARINE CORPS

Attained the rank of Master Sergeant and served in many key leadership roles.

August 1994 - April 1996

Detachment Commander – American Embassy, Moscow, Russia -

January 1993-August 1994

Detachment Commander – American Embassy, Kingston, Jamaica

January 1989- January 1993

Floor Chief – Weapons Training Battalion – Quantico, Virginia

- Chief instructor of the USMC precision weapons shop
- Instructed an armorer training course in Colombia, South America, in support of "Operation Snowcap"
- Certified as a High-Risk Personnel (firearm trainer) instructor
- Supervised range operations on pistol and rifle ranges out to 1000 yards

January 1974 - January 1989

- Assisted with the development and introduction of the M16A2 while at Weapons Training Battalion
- Recruiter –Winston Salem NC – and other various duty stations
- Received the award as Non-Commissioned Officer-in-Charge of the Year and was meritoriously promoted to Gunnery Sergeant

ADDITIONAL QUALIFICATIONS AND AWARDS

- Interstate and Foreign Nexus Instructor
- Testified over 50 times in federal and state court and certified as an expert witness on firearms statutes and regulations. To include for the Defense: Arm Brace case, U.S. v. Wright, Case No. 3:18CR162.
- Distinguished high power rifle shooter
- FFL holder, successful business in custom rifle repair and sales
- Certified armorer for the following gun companies, Ruger, Glock, Smith and Wesson, and Heckler and Koch
- Received manufacturing and historical instruction at the following firearms sites both in conus and overseas; Marlin, Savage, H&R Inc., Winchester, Mossberg, Springfield Armory, Wilson Tools, Sig, Glock, Walther, Mauser, Sig Sauer, etc.
- Completed course of instruction in Principles of Acoustics and the Measurement of Sound
- Developed a course in recognition of silencers/silencer components and served as an expert in the classification of silencers and silencer components under federal statutes
- Wrote numerous training lesson plans in the use and identification of firearms-related subjects

Exhibit 11

5

Richard Vasquez

- Trained official government personnel in firearms identification in the following countries: France, Canada, Colombia, El Salvador, Mexico, Canada, Belize, Jamaica, Curacao and Guatemala, etc.
- Conversant in all aspects of the NFA
- Knowledgeable in the requirements of importing firearms and firearms components
- Presented firearms regulations to the Guatemalan Supreme Court
- Received public service award from the United States Attorney in the 4th district
- Recipient of ATF's Distinguished Service Medal
- Recipient of numerous letters of appreciation from ATF, FBI, and foreign law enforcement
- Headquarters USMC representative to introduce the M16A2 into the hands of 6th Marine Regiment
- Trials testified in last 5 years
CASE NO. 3:18CR162 Kellend Wright Verse DOJ
231-73-8407/VA OL #T6J867624 Robert Hymes Verse Loudon County VA

ATTACHMENT E

Exhibit 12



Firearms Training and Interstate Nexus Consulting, LLC
5557 28th Street SE Ste 205
Grand Rapids, MI 49512

May 4, 2021

Kevin C. Maxwell, Esquire
Law Offices of Kevin C. Maxwell
733 West Colonial Drive
Orlando, Florida 32804

Dear Mr. Maxwell,

My firearms consulting company, Firearms Training and Interstate Nexus Consulting, LLC was asked to provide an opinion on the classification of the Rare Breed Triggers FRT-15 and whether or not it is a machinegun as defined in Title 26 U.S.C. § 5845(b). I recently retired from the Bureau of Alcohol, Tobacco, Firearms, and Explosives after 22 years as a special agent, (29 years total law enforcement). My career at ATF included being an instructor at ATF's National Academy teaching the GCA and NFA firearms identification block of instruction to new employees attending either the Special Agent Basic Training or the Industry Operations Investigator Basic Training academy courses. I was also an ATF Firearms Instructor and attended numerous firearms armorer training classes. In my last position at ATF I was a Supervisory Special Agent and the Chief of the Advanced Firearms and Interstate Nexus Branch, a branch within the Firearms and Ammunition Technology Division (FATD).

The pertinent authority under consideration for this evaluation is the Gun Control Act of 1968 (GCA) and the National Firearms Act (NFA) of 1934 and the definitions contained in them.

The Gun Control Act in Title 18 U.S.C. § 921(a)(3)(A) defines the term "**firearm**" (in part) as "*any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive*". Additionally, the Gun Control Act in Title 18 U.S.C. § 921(a)(28) defines the term **semiautomatic rifle** as "*any repeating rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge and chamber the next round, and which required a separate pull of the trigger to fire each cartridge.*"

Exhibit 12

"The National Firearms Act in Title 26 U.S.C. §5845(b) defines the term "machinegun" as "any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person."

On March 30, 2021, I examined and test fired two Spike's Tactical AR-15 style rifles which both had Rare Breed Triggers FRT-15 installed in them. The test firing was conducted using factory MAGTECH ammunition at a range in Florida. Both firearms functioned as designed and as semiautomatic rifles. I also examined the components of the FRT-15, which is a self-contained trigger unit consisting of three major parts identified as a locking bar, hammer, and trigger.

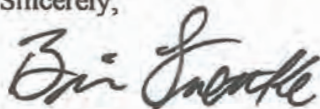
I have reviewed the Firearm Trigger Mechanism's Patent Number US10,514,223, previous ATF (FTB & FATD) classification letters, an animation showing the semiautomatic function of the FRT-15 trigger during the cycle of operation, other opinion letters, and federal court opinions.

I have also read the March 25, 2021 Sixth Circuit Court of Appeals ruling in *Gun Owners of Am., Inc., et al. v. Garland, et al.* No. 21a0070 (CA6 Mar. 25, 2021). Although that case involved "Bump Stocks", I think what the court ruled is applicable to the Rare Breed Triggers FRT-15, because it emphasized and applied the actual definition of a machinegun in Title 26 U.S.C. § 5845(b) and rejected ATF's newly made up machinegun definition. The Court ruled "And because we find a single function of the trigger applies to the mechanical process of the trigger, we further hold a bump stock cannot be classified as a machine gun because a bump stock does not enable a semiautomatic firearm to fire more than one shot each time the trigger is pulled".

Due to the design of the FRT-15, the locking bar does not allow it to function as a "hammer follow" machinegun. Rather, during the cycle of operation the bolt carrier cocks the hammer and resets the trigger. The locking bar pivots forward locking the trigger in place until the bolt carrier comes back forward to the locking position and the locking bar is unlocked. The FRT-15 trigger can now be pulled. The FRT-15 allows for very fast semiautomatic trigger pulls due to the quick resetting trigger.

The Rare Breed Triggers FRT-15 is designed and functions as a semiautomatic trigger. The FRT-15 does not enable a semiautomatic firearm to fire more than one shot each time the trigger is pulled. Therefore, it is my opinion, Rare Breed Triggers FRT-15 is not a firearm or a machinegun, and is a legal semiautomatic trigger.

Sincerely,



Brian Luettke
Resident Agent/Owner FTINC, LLC

ATTACHMENT F

Kelly. Just sent the wire instructions to your yahoo

Cole Leleux

Alright now stock slacking ladies.
This should have been done
Friday

CL

Kelly Leleux

BANK NAME: JPMorgan Cha
ADDRESS: 270 Park Avenue
CITY, STATE ZIP: New York, N
ABA: 267084131
Account Name: Rare Breed Tri
Account Number: 693581008
Routing Number: 021000021

YAHOO PLUS MORE... Upgrade Now

Kelly Home

Wires.pdf Page 1 of 1





Customer Information for Incoming Wire Transfers

We have created this guide to explain some key terms and standard information that may be required for another person to send you a wire transfer payment. It is **not** an agreement by the bank to accept or transmit the wire transfer payment.

Key Terms

ABA Routing/Transit Number - used in the US to identify financial institutions.

SWIFT Code - unique identification code for a bank/branch; used for an international transfer.

Provide the following information to the person sending the wire:

☒ DOMESTIC WIRES

✓ Provide Chase Bank's ABA Routing/Transit Number **021000021**

☒ INTERNATIONAL WIRES

✓ Provide Chase Bank's SWIFT Code **CHASUS33**

Your Chase Account Number (If using a Chase Loan, Investment, or other Non-Deposit acct number do NOT enter it here; enter it in "Other Information" & indicate the type of account to be credited):		Your Name as it Appears on the Account to be credited: RARE BREED TRIGGERS, LLC	
Amount of the Wire: 693581008		Receiving Bank Name: Chase	
For Domestic transfers, Chase ABA Routing/Transit Number: 021000021		Receiving Branch Address: JPMorgan Chase 270 Park Avenue New York, NY 10017	
For International transfers, Chase Swift Code: CHASUS33			
Other Information: DO NOT USE THE ABA ROUTING ABOVE. PLEASE USE FLORIDA ABA ROUTING 267084131			

Important!

- Incoming funds will be credited based *solely* on the Account Number you provide. BE CERTAIN you confirm that the Account Number is correct.
- Any error or incomplete information may result in the wire going to the wrong person or being delayed, which could result in the loss of funds.
- Incoming funds may be deposited into the checking or savings account or may be applied as a payment to the loan or line of credit.
- Incoming funds cannot be credited to a Chase Secure Banking Account.
- Incoming funds may take 1 full business day before the funds are received from the sender.
- Sender's bank may request Chase's address for incoming wires.
Address is 270 Park Ave., New York, NY 10017.

M1208-01 (08/20)

This is what was sent to us.

KL

Case 1:23-cv-00369-NRM-RML Document 23-1 Filed 02/16/23 Page 44 of 47 PageID #: 463

It's very confused

Can we ask someone?

Kelly Leleux

KL

Cole said he would check in a few

Cole Leleux

Lawrence will resend wire instructions

CL

We are removing 021 routing off of it

Kelly Leleux

KL

Did the bank verify that?

Cole Leleux

And I looked back at old text with BDU. The 021 routing was what they tried first and it failed

We then gave them the local number and that has been working

CL

Kelly Leleux

KL

Ok

ATTACHMENT G

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Your Chase Account Number (If using a Chase Loan, Investment or other Non-Deposit acct number do NOT enter it here; enter it in "Other Information" & indicate the type of account to be credited):	Your Name as it Appears on the Account to be credited: RARE BREED TRIGGERS, LLC
Amount of the Wire: 693581008	Receiving Bank Name: Chase
For Domestic transfers, Chase ABA Routing/Transit Number: 021000021	Receiving Branch Address: JPMorgan Chase 270 Park Avenue New York, NY 10017
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- Sender's bank may request Chase's address for incoming wires.
Address is 270 Park Ave., New York, NY 10017.